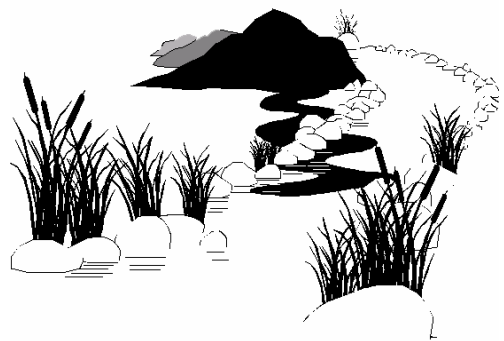


CHAPTER 3:

SPECIALIZED REVIEWS

- Beach Maintenance (wetlands and Great Lakes)
- Conveyances - Great Lakes
- Critical Dune Areas (Sand Dunes)
- Dam Safety
- Environmental Areas
- Federal review - Section 404 (Red Files)
- Floodplains:
 - Flood Hazard Management
 - National Flood Insurance Program
 - Subdivision Floodplains
- High Risk Erosion Areas
- Marinas
- Public Transportation Projects
- Wetlands:
 - Wetland Protection
 - Wetland Assessment Program



CHAPTER 3: SPECIALIZED REVIEWS

There are some instances when supplemental permitting or reviews may be necessary before a final determination can be made on a permit. There are several areas in the Michigan Department Environmental Quality (MDEQ) and Michigan Department of Natural Resources (MDNR) that focus on special programs such as hydrology; floodplains and flood hazards; transportation construction activities; subdivision development activities; dam construction and maintenance; wetland issues; Great Lakes shoreline issues; or threatened or endangered species. Some projects may also require review and approval by the United States Environmental Protection Agency (USEPA), US Fish and Wildlife Service (USFWS), or the United States Army Corps of Engineers (USACE). Supplemental reviews of a Joint Public Application (JPA) may be conducted by state or federal professional staff specializing in the areas listed above. Some activities associated with these programs may also require additional permits. Following are descriptions of such programs and information on how to access web sites for additional information or applications.

Beach Maintenance, Parts 303 Wetland Protection and 325, Great Lakes Submerged Lands

New beach maintenance legislation was adopted in June, 2003. Parts 303, Wetland Protection, and 325, Great Lakes Submerged Lands, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), were amended to exempt certain activities from requiring a permit, and to streamline approval of activities to maintain beaches and manage vegetation on exposed Great Lakes bottomlands (including Lake St. Clair but not other connecting waterways) during low water periods. Permit requirements have been changed for two categories of activities: "beach maintenance" and "removal of vegetation."

The Michigan law amendments do not change federal requirements. A permit from the U.S. Army Corps of Engineers (USACE) is still needed for most activities that alter Great Lakes coastal areas.

Pursuant to the new legislation, certain "beach maintenance activities" may be carried out between the ordinary high water mark of the Great Lakes and the current water's edge (exposed bottomlands which are public trust lands belonging to the State of Michigan) without a permit from MDEQ, with some exceptions as noted below:

- **Manual or mechanized leveling of sand** in areas that are predominantly free of vegetation. Property owners may spread sand that has blown onto upland portions of their property on exposed bottomlands. Alteration of natural lakeshore contours is not authorized.
- **Mowing of vegetation**, to a height of not less than 2 inches, without disturbing soil or plant roots. Mowing is limited to the width of the riparian property, or 100 feet, whichever is less.
- **Small scale hand pulling of vegetation**, except for threatened or endangered species.
- **Grooming** of the soil, by raking the top 4 inches of soil to remove debris, without disturbing or destroying plant roots. Debris may include dead vegetation, trash, zebra mussel shells, and dead fish.

-
- **Construction and maintenance of a temporary pathway** directly to open water. Temporary pathways may cross swales with standing water, but may not exceed 6 feet in bottom width. Paths must be constructed of sand and pebbles obtained from exposed un-vegetated bottomlands.

Activities Along Great Lakes and Lake St. Clair	Michigan MDEQ*	USACE
Leveling of Sand	No permit required	Requires Regional permit
Grooming	No permit required	Requires Nationwide permit
Mowing	No permit required	Not regulated
Path Construction	No permit required	Requires Nationwide permit
Removal of Vegetation in Pilot Areas	Requires director's letter of Approval	Requires individual permit with public notice
Removal of Vegetation outside Pilot areas	Requires permit	Requires individual permit with public notice.

*These exemptions do not apply to activities that may impact threatened or endangered plant or animal species listed under either state or federal law, or are located in Environmental Areas designated under Part 323, or Critical Dunes designated under Part 353 of the NREPA.

A state permit from the Land and Water Management Division (LWMD) is required for mowing in excess of what is allowed by the new amendment (to a height less than two inches or a width greater than 100 feet) at a special permit application fee of \$50. Applicants for these activities should use the new beach maintenance application form, provided in Appendix G.

All other Great Lakes beach maintenance activities not specifically mentioned by the June 2003 amendments, beach maintenance in inland waters and wetlands above the ordinary high water mark of the Great Lakes, and alteration of vegetation beyond the water's edge (under water) are not authorized without a permit from the LWMD. Request for these activities should be made using the JPA form. The fees for these activities are as specified in the fee schedule, provided in Appendix C.

Removal of Vegetation in Designated "Pilot Areas" with a Letter of Approval

Two areas along the Great Lakes--Grand Traverse Bay and Saginaw Bay--have been designated by the MDEQ director as pilot areas and allow Great Lakes riparian property owners to remove certain types of vegetation from exposed bottomlands **after** receiving a letter of approval from the MDEQ certifying that specified criteria are met. Through this pilot project, review is expedited and within 10 working days of receipt of the request from the property owner, the MDEQ will issue approval if:

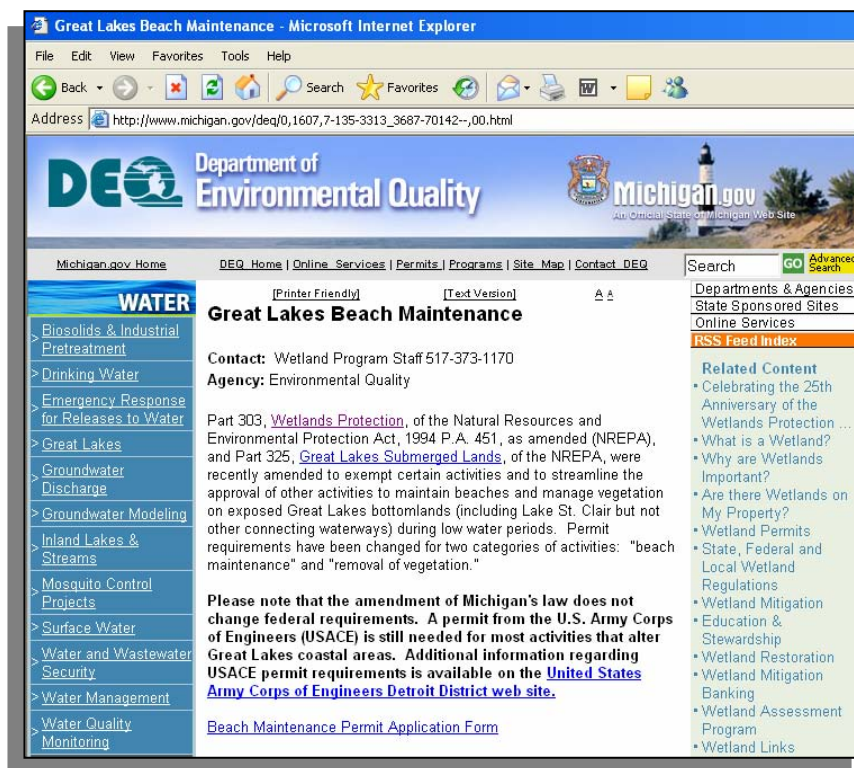
1. The area is unconsolidated material predominantly composed of sand, rock, or pebbles; or, is predominantly vegetated by non-native or invasive species (e.g., purple loosestrife, *Phragmites*).
2. The area met the conditions described in Number 1 as of January 1, 1997.
3. The area in which removal of vegetation may occur is not a designated Environmental Area.

4. The removal of vegetation will not impact species listed as threatened or endangered under either state or federal law.

Removal of vegetation is limited to 50 percent of the width of the adjacent upland property, or 100 feet, whichever is greater. Areas that meet the first criteria are expected to be covered primarily by loose sand, or a mix of sand and gravel, and to have sparse, scattered vegetation. Sand, rock, and pebbles, rather than plants, will predominate. All plant materials that are removed from the bottomlands must be collected and disposed of properly outside of the wetland.

Requests for a letter of approval should be sent (via mail, fax or certified mail) to the local MDEQ district office to the attention of the LWMD staff person in the county where the activity is proposed. Activities under the pilot project should be requested using the new beach maintenance application form provided in Appendix G.

Details on the Beach Maintenance Program, including a Question and Answer document, and links to information on endangered species and plants, environmental areas and critical dunes are available on MDEQ's website at www.michigan.gov/jointpermit, select "Wetland Protection (in Related Links)", and then "Great Lakes Beach Maintenance," or by simply scrolling to the bottom of the MDEQ home page and clicking on "Great Lakes Beach Maintenance."



Conveyances

A conveyance may be required for activities associated with the bottomland (lake bottom) of the Great Lakes. A conveyance can be a lease, a deed, or a use agreement between the land user and MDEQ. Generally, a deed is required for filled bottomlands; and a marina lease is required for a marina, yacht, or boat club, or similar activity. Private use agreements cover private boat harbors, and commercial waterfront development such as ore docks, coal docks, ferry docks, pipeline docks, and similar activities. A separate application is required for a conveyance. A copy has been provided in Appendix G. The need for a conveyance and the appropriate type of conveyance are determined on a site specific basis upon review of the application package.

For more information regarding conveyances, please contact:

Tom Graf

517-335-3471 (Phone/Voice Mail)

graft@michigan.gov (E-mail)

or

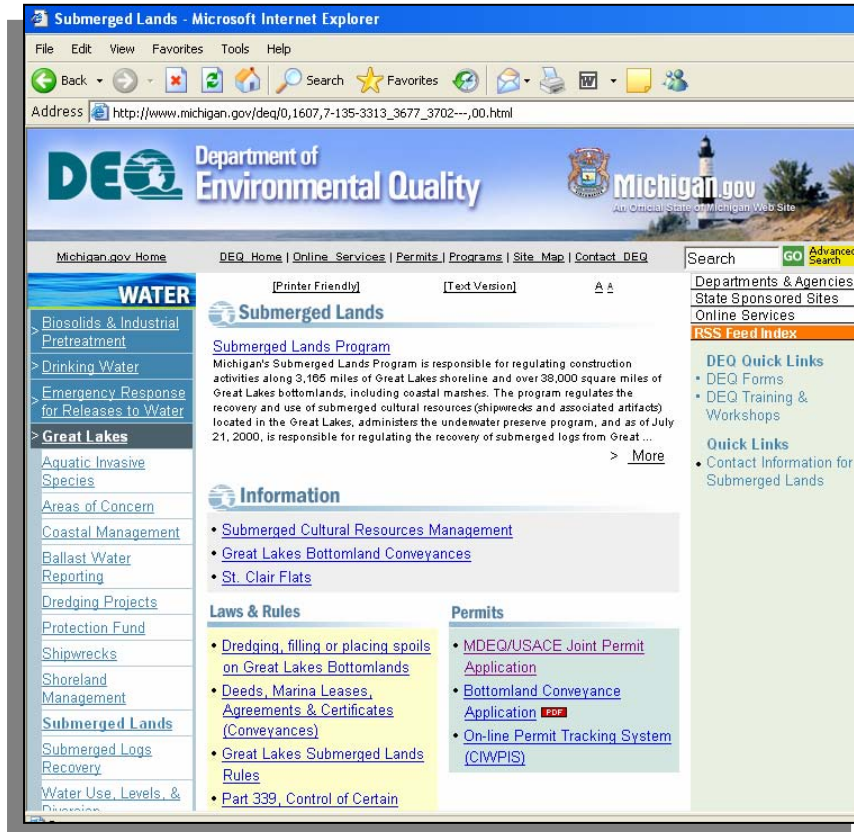
Chris Antieau

517-373-3894 (Phone/Voive Mail)

antieauc@michigan.gov

MDEQ, LWMD, PCU at 517-373-9244

Additional information regarding conveyances for Great Lakes bottomlands and the application form can be obtained at the MDEQ website www.michigan.gov/jointpermit, select "Great Lakes (in Related Links)", and then "Submerged Lands".



Critical Dune Area (Part 353, Sand Dune Protection)

Activities such as new building construction or additions to buildings, landscaping (excavation, re-grading, and fill placement), decks, sand removal, stairways, tree cutting, and work on septic systems within Critical Dune Areas (CDA) require a permit under Part 353, Sand Dune Protection and Management, of the NREPA.

Michigan's sand dunes are a unique natural resource of global significance. Collectively, they represent the largest assemblage of fresh water dunes in the world and support numerous threatened and endangered species. The combination of topographic relief, vegetation and climatic conditions is a phenomenon unique to the State of Michigan. The dunes support a wide diversity of habitats - from cool forests of maple and hemlock, to the harsh environment of the open dunes, to quiet inter-dunal ponds teeming with life. Michigan's dunes are also home to five federally listed threatened and endangered species.

Over the last several decades sand mining and other development pressures have threatened the future of Michigan's dunes. As the dunes became increasingly popular sites for recreation, home building and condominium development, the potential for widespread damage and destruction of these fragile natural resources increased.

To address these concerns, the regulations were amended in 1989 to regulate developmental, silvicultural and recreational activities. Part 353 requires a permit for any of these activities, including contour changes, in areas identified as critical dunes. CDAs extend along much of Lake Michigan's shoreline and the shores of Lake Superior, totaling about 80,000 acres in size. Uses are prohibited on slopes measuring greater than 33 percent without a variance, and structures are prohibited lakeward of the primary dune crest. Environmental impact assessments are required for special use projects (subdivisions, site condominiums, etc.).

Local units of government have the opportunity to assume permitting authority under Part 353 by adopting or amending a zoning ordinance. Presently, Emmet County, St. James Township, Peaine Township, Benona Township, the City of Bridgman, and Pere Marquette Township have MDEQ approved ordinances and are responsible for permit issuance under Part 353. The MDEQ retains final review authority for special use projects.

For those jurisdictions that have local permitting authority, application for activities in CDAs is made with the local government. In all other areas, permit applications using the JPA are submitted to the MDEQ in Lansing. Projects proposed in CDAs should be described in Section 20 of the JPA. Once the JPA is filed, field staff conducts an on-site inspection of the proposed use. If the proposal does not meet the standards in Part 353, staff will work with the applicant to determine if there are alternatives on the site which would enable development of the property while meeting the standards in Part 353. Variance requests are considered by a panel of staff reviewers in Lansing.

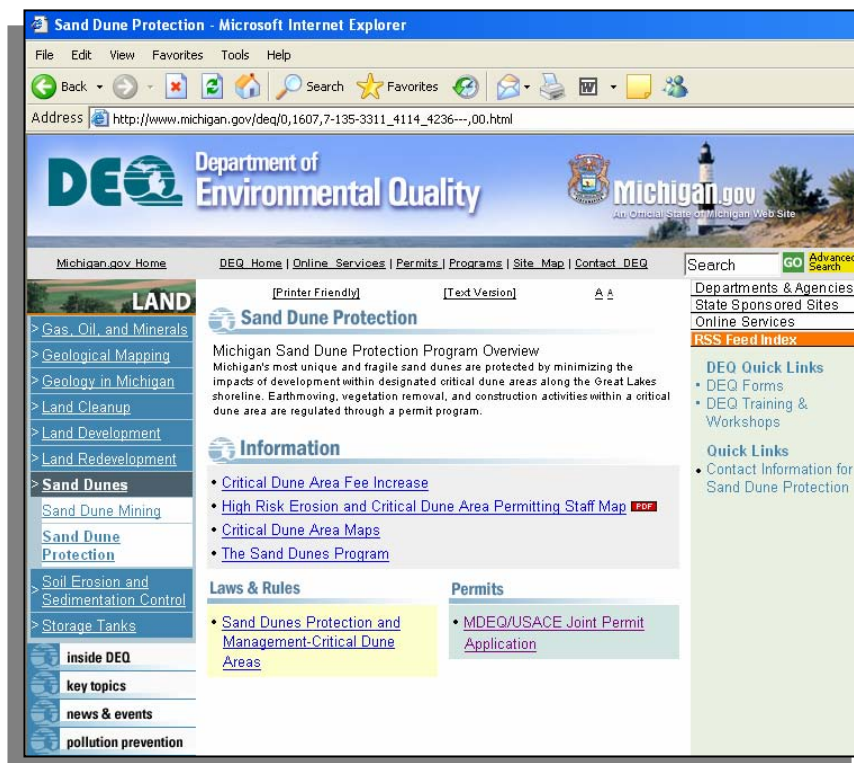
For more information regarding the Sand Dune Protection and CDA or for assistance in application preparation, please contact:

Penny Holt
517-373-1952 (Phone/Voice Mail)
holtp@michigan.gov (E-mail)

or

Matt Warner
517-335-4209 (Phone/Voice Mail)
warnermt@michigan.gov (email)
or
MDEQ, LWMD, PCU at 517-373-9244

The information provided above and additional information on Sand Dune Protection and CDA can be found at www.michigan.gov/jointpermit, select "Sand Dune Protection (in Related Links)". Maps indicating critical dune areas are also available from the Sand Dune Protection web site. A map showing the general area of CDAs is available in Appendix H.



Dam Safety (Part 315, Dam Safety)

The Dam Safety Program administers the provisions of Part 307, Inland Lake Levels, and Part 315, Dam Safety of the NREPA. There are over 2,400 dams in the state and about 935 are regulated under Part 315. A permit is required for the construction and repair of dams over 6 feet in height and when over 5 acres are impounded at the design flood elevation. A JPA should be submitted, including completion of Section 17, for all regulated dam projects. Permit decisions are made by licensed professional engineers. Inspection reports are required every three to five years depending on potential hazard rating.

For more information regarding Dam Safety, please contact one of the following persons. Also see the Dam Safety staff jurisdictional area map in Appendix H.

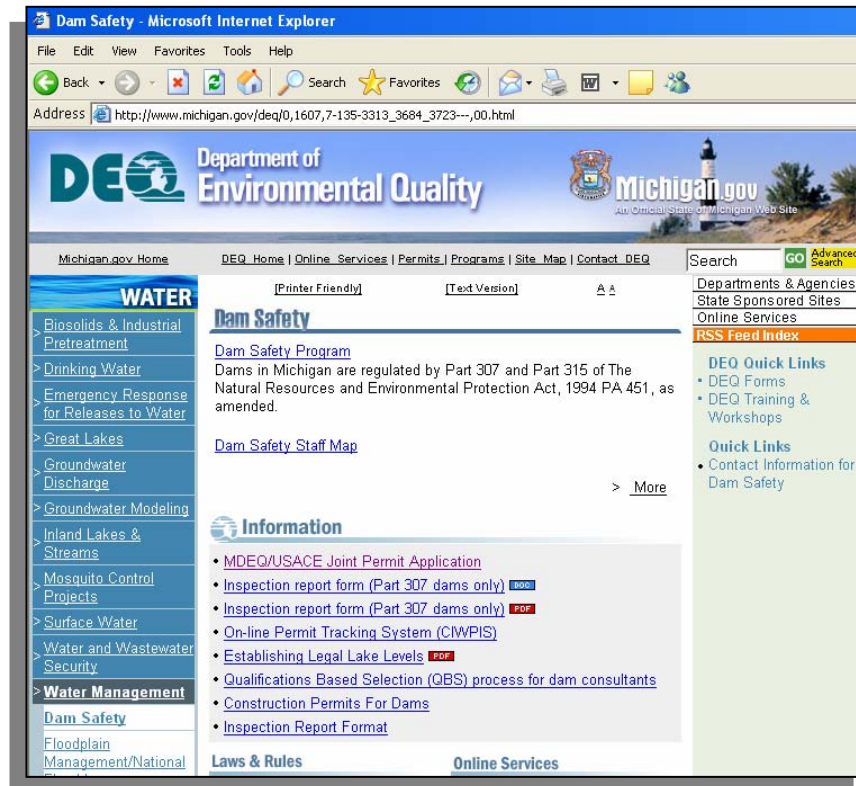
Jim Pawloski
989-705-3443 (Phone/Voice Mail)
pawloskj@michigan.gov (E-mail)

Paul Wessel
517-335-6748 (Phone/Voice Mail)
wesselpt@michigan.gov (E-mail)

or

MDEQ, LWMD, PCU at 517-373-9244

Information regarding the Dam Safety program, maps, guides, and related links can be found at www.michigan.gov/jointpermit, select “Dams (in Related Links)”.



Environmental Areas (Part 323, Shorelands Protection and Management)

Sensitive fish and wildlife habitat along the shorelands of the Great Lakes, connecting waterways, and river mouths and upland areas have historically been destroyed for intensive residential and commercial development. The continued loss of these necessary habitats has serious effects throughout the Great Lakes region. Under Part 323 of the NREPA “environmental areas” have been designated and are regulated to protect habitat necessary for the preservation and maintenance of fish and wildlife. Many environmental areas contain coastal wetlands and other important habitats, such as upland ridges and islands. Part 323 protects environmental areas up to 1000 feet landward of the ordinary high water mark of a Great Lake or 1000 feet landward of the ordinary high water mark of lands adjacent to waters affected by levels of the Great Lakes. In environmental areas where the boundary encompasses an entire parcel, a 12,000 square foot construction zone is identified where construction can be permitted.

Any proposed dredging, filling, grading or other alteration of the soil, natural drainage or vegetation, or placement of permanent structures in a designated environmental area requires apply for a permit under Part 323. Section 21 of the JPA provides a check point for these areas to be identified by the applicant.

Permits in Environmental Areas are required for dredging, filling, grading, other alterations of the soil, alterations of the natural drainage, alteration of vegetation utilized by fish or wildlife, or both, including timber harvest in identified colonial bird nesting areas and the placement of permanent structures. Activities which do not require a permit include maintenance of existing dikes, farming in some instances, and timber harvest if outside a colonial bird nesting area, under Part 323. A permit may be required however for these activities under other Parts of the NREPA.

Private owners of designated environmental area lands are eligible to apply for enrollment in Part 361, Farmland and Open Space Preservation, of the NREPA. This statute provides for property tax reduction and exemption from some types of assessments if the property owner enrolls under an open space easement. Under the easement, these habitat rich lands can still continue to be utilized by the property owner for hunting, fishing, trapping, hiking, and other non-developmental activities.

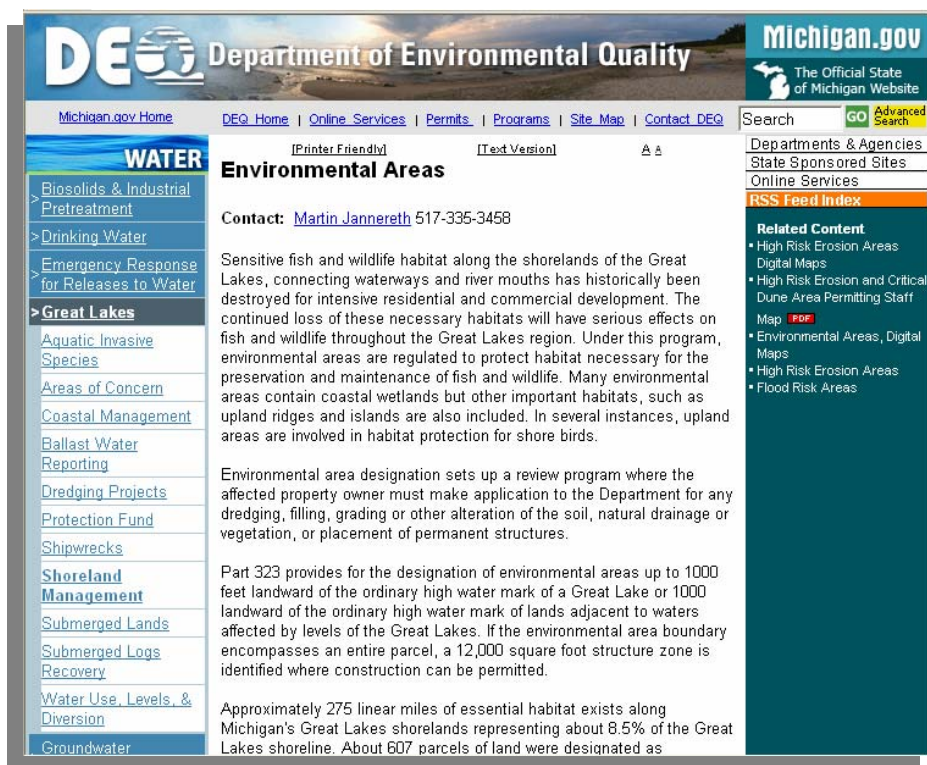
For more information regarding Environmental Areas or for assistance in JPA preparation, please contact.

Jim Milne
517-373-4608 (Phone/Voice Mail)
517-335-3451 (Fax)
milnej@michigan.gov (E-mail)

or

MDEQ, LWMD, PCU at 517-373-9244

Townships with designated environmental areas are displayed in a statewide map and listed in a PDF document. All available information and maps of designated environmental areas are available at www.michigan.gov/jointpermit, select "Great Lakes (in Related Links)," "Shoreland Management," and then "High Risk Erosion Areas Digital Maps." A copy of the statewide map is also available in Appendix H.



Federal Section 404 Reviews (Red Files)

Section 404 of the Federal Clean Water Act regulates the placement of fill in waters of the United States, including wetlands. The program is jointly administered by the USEPA and the USACE. In 1984, the USEPA authorized Michigan to administer the program within the state, except where the USACE has retained jurisdiction, such as along the Great Lakes coastal areas, connecting channels, and adjacent wetlands. In these areas federal and state authorities overlap and permits are required from both.

Michigan's authority to administer the 404 program is dependent upon its land and water regulations and rules, Parts 301 and 303, of the NREPA and the administrative Rules promulgated there under, administered by the MDEQ. The permit action taken by the state under the 404 program is a state action under these state regulations, not a federal action. Some federal 404 oversight therefore is maintained by USEPA. The procedures are outlined in a 1983 Memorandum of Agreement between the federal government and the state of Michigan. The agreement waives federal review for the vast majority of applications in areas under Michigan's program. However, projects that involve large amounts of fill or that impact critical environmental areas, are forwarded for federal review and are

commonly referred to as “red” files. Copies of the public notice are sent to the USEPA-Region 5, USACE-Detroit office, and the USFWS. Projects that are objected by USEPA may not be issued a permit, unless the concern is resolved.

Projects that trigger a Section 404 federal review include the following:

1. Major discharges of dredged or fill material
 - a. wetland/water fills greater than 10,000 cubic yards
 - b. breakwaters/seawalls greater than 1,000 feet
 - c. culvert enclosures greater than 100 feet and with greater than 200 cubic yards of fill
 - d. stream relocations greater than 500 feet
2. Critical areas established by State or Federal law.
 - a. fish and wildlife sanctuaries/refuges
 - b. wilderness areas and preserves
 - c. national and historical monuments
 - d. national and state parks
 - e. national wild and scenic rivers
 - f. designated habitat of threatened or endangered species
 - g. designated or proposed per national Historic Preservation Act
 - h. other sites designated by the USEPA
3. Impacted non-state waters – Indiana, Ohio, Wisconsin
4. Discharges into areas identified by the USEPA or USACE with the following impacts:
 - a. significant adverse effects of waters unique for geographic region
 - b. significantly reduce commercial or recreational value
 - c. affect Federally listed or proposed endangered or threatened species
5. Known or suspected toxic pollutants
 - a. hazardous substances
 - b. toxic substances
 - c. hazardous waste

For more information regarding Section 404 reviews, please contact:

Peg Bostwick
517-335-3470 (Phone/Voice Mail)
bostwicp@michigan.gov (E-mail)

or

MDEQ, LWMD, PCU at 517-373-9244

Flood Hazard Management (Part 31, Water Resource Protection)

A river, stream, lake, or drain may on occasion overflow their banks and inundate adjacent land areas. The land that is inundated by water is defined as a floodplain. In Michigan and nationally, the term floodplain has come to mean the land area that will be inundated by the overflow of water resulting from a 100-year flood (a flood which has a 1% chance of occurring any given year). It is estimated that about 6% of Michigan's land is flood-prone, including about 200,000 buildings.

A flood is a natural process that occurs wherever there is a waterbody. However, the damage that results from a flood is dependent on what type of development has occurred in and near an area that is flood-prone. One of the goals of the LWMD is to ensure that development which occurs within the 100-year floodplain is reasonably safe from flooding and does not increase flood damage potential.

The State of Michigan's Floodplain Regulatory Authority, found in Part 31, Water Resources Protection, of the NREPA requires that a permit be obtained prior to any alteration or occupation of the 100-year floodplain of a river, stream or drain.

The floodplain is divided into two sections, the floodway which carries most of the flow during a flood event, and the floodway fringe which is an area of very slow moving water or "slack water". A floodway is the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the 100 year flood; these are high hazard areas of rapidly moving water during times of flood. The purpose of Part 31 is to assure that the flow carrying capacity of a watercourse is not harmfully obstructed, and that the floodway portion of the floodplain is not used for residential construction.

The Floodplain Regulatory Authority deals with the floodplains of rivers, streams, or drains which have a drainage area that is 2 square miles or greater. A permit is not required from the MDEQ, under Part 31, for alterations within the floodplains of the Great Lakes, inland lakes, or watercourses which have a drainage area less than 2 square miles. Projects proposed to be located in floodplains and floodways should be described in Section 13 of the JPA.

In general, construction and fill may be permitted in the portions of the floodplain that are not floodway, if local ordinance and building standards are met, and compensating excavation is provided equal to the volume of fill placed in the floodplain. New residential construction is specifically prohibited in the floodway.

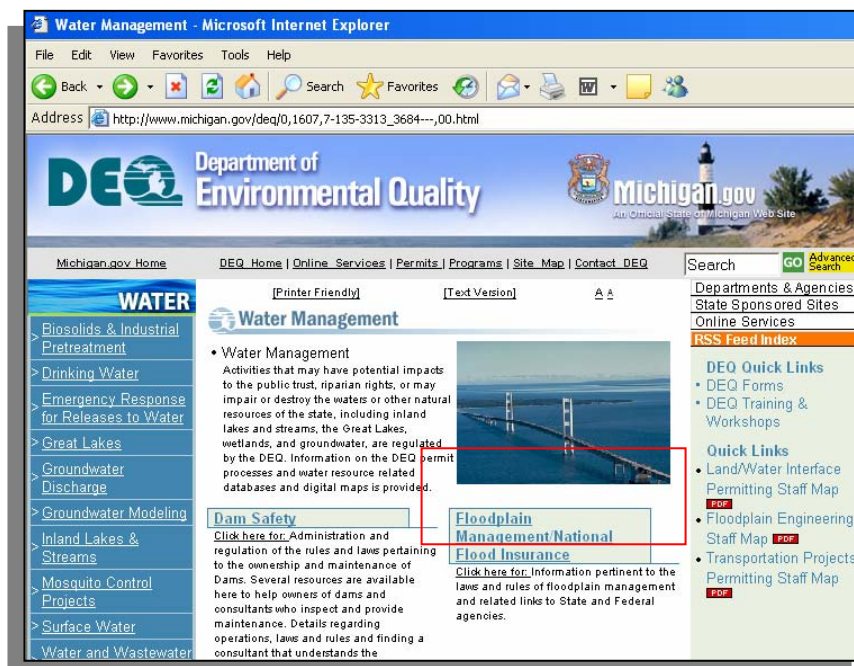
The minimum standard for residential construction within the 100-year floodplain requires that the lowest floor of a structure be elevated one-foot above the 100-year flood elevation. Some communities and counties may have a higher standard relating to elevation requirements. A floor of a structure that is below grade on all sides is considered a basement and must be at or above the 100-year flood elevation.

Applications are reviewed for completeness by the PCU, but floodplain permitting decision review is done by the district floodplain engineer responsible for that portion of the state. A copy of the staff jurisdictional boundary map is available in Appendix H.

For more information regarding Flood Hazard Management, the National Flood Insurance Program, or assistance in JPA preparation, please contact one of the individuals listed below within each respective district area:

STAFF	PHONE NUMBER	E-MAIL ADDRESS	WORK AREA	DISTRICT(S)
Les Thomas	517-335-3448	thomasl@michigan.gov	NFIP State Coordinator	Statewide
Carrie Wontorcik	269-567-3564	wontorcc@michigan.gov	Floodplain / NFIP	Kalamazoo
Bruce Menerey	517-335-3181	menereyb@michigan.gov	Floodplain / NFIP	Lansing
Matt Occhipinti	616-356-0207	occhipim@michigan.gov	Floodplain / NFIP	Grand Rapids
Donna Cervelli	517-335-6266	cervelld@michigan.gov	Floodplain / NFIP	Lansing & Jackson
Joy Brooks	989-686-8025 ext. 8364	brooksji@michigan.gov	Floodplain / NFIP	Saginaw Bay
Sheila Meier	906-346-8558	meiers@michigan.gov	Floodplain / NFIP	Upper Peninsula
Susan Conradson	231-775-3960	rundhaus@michigan.gov	Floodplain / NFIP	Cadillac & Gaylord
Maria Zingas Patrick Durack	586-753-3872 586-753-3865	zingasm@michigan.gov durackp@michigan.gov	Floodplain / NFIP	SE Michigan

Additional information regarding the Flood Hazard Management, maps, guides, and related link information can be found on the MDEQ web site at www.michigan.gov/jointpermit, "Water Management (in Related Links)," and then "Floodplain Management."

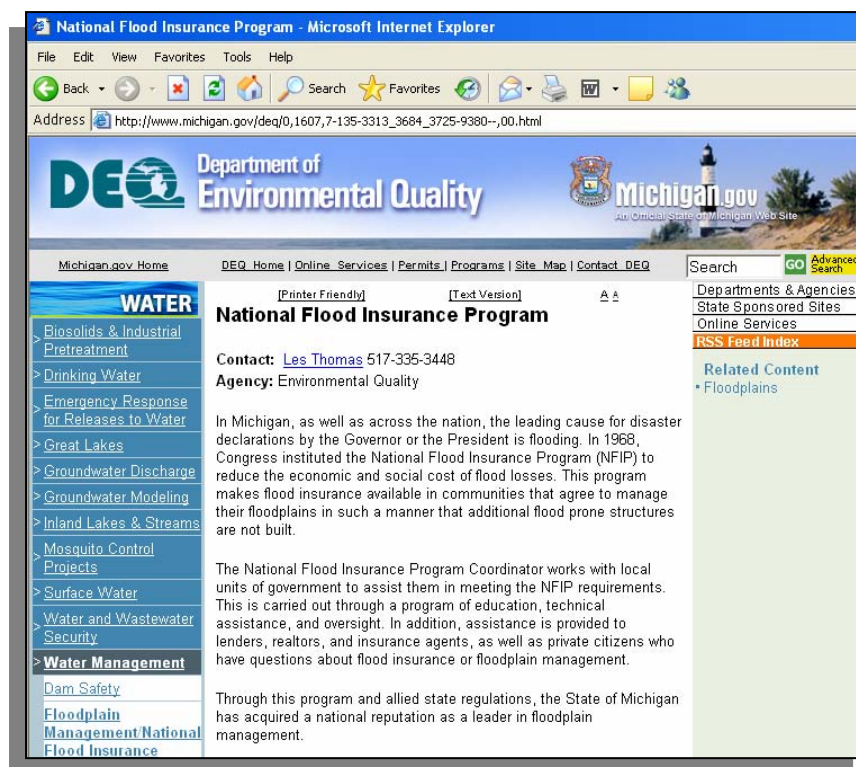


National Flood Insurance Program (Part 31, Water Resources Management)

In Michigan, as well as across the nation, the leading cause for disaster declarations is flooding. In 1968, Congress instituted the National Flood Insurance Program (NFIP) to reduce the economic and social cost of flood losses. This program makes flood insurance available in communities that agree to manage their floodplains in such a manner that additional flood prone structures are not built.

The National Flood Insurance Program Coordinator works with local units of government to assist them in meeting the NFIP requirements. This is carried out through a program of education, technical assistance, and oversight. In addition, assistance is provided to lenders, realtors, and insurance agents, as well as private citizens who have questions about flood insurance or floodplain management.

Information regarding the National Flood Insurance Program, FEMA maps, and contact information can be found on the MDEQ web page at www.michigan.gov/jointpermit, select "Water Management (in Related Links)," then "Floodplain Management / National Flood Insurance Program," then "National Flood Insurance Program."



Subdivision Floodplain Program

In an effort to provide consumer protection and minimize losses due to flooding, the Land Division Act (formerly the Subdivision Control Act), 1967 PA 288 as amended, Sections 116 and 117, require that preliminary plats for subdivisions be submitted to the MDEQ, LWMD for review. (Other Parts of the act involving subdivisions are administered by Consumer and Industry Services. Further information can be found at <http://www.michigan.gov/cis>.)

Section 116 requires the proprietor to submit the preliminary plat to the MDEQ if the land proposed to be subdivided abuts a lake or stream, or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected.

Section 117 requires the proprietor to submit the preliminary plat to the MDEQ if any of the subdivision lies wholly or in part within the floodplain of a river, stream, creek, or lake. The 100-year floodplain must be shown on the final plat. All lots shown on the plat will need to have 3,000 square feet of buildable area above the 100-year floodplain elevation. Permits will be needed from the LWMD for any filling, dredging, or construction within the floodplain, wetland, or below the ordinary high water mark of any inland lake, stream, creek, or drainage course.

For more information regarding Subdivision Floodplain Program, please contact:

Mario Fusco
517-335-3177 (Phone/Voice Mail)
fuscom@michigan.gov (E-mail)

or

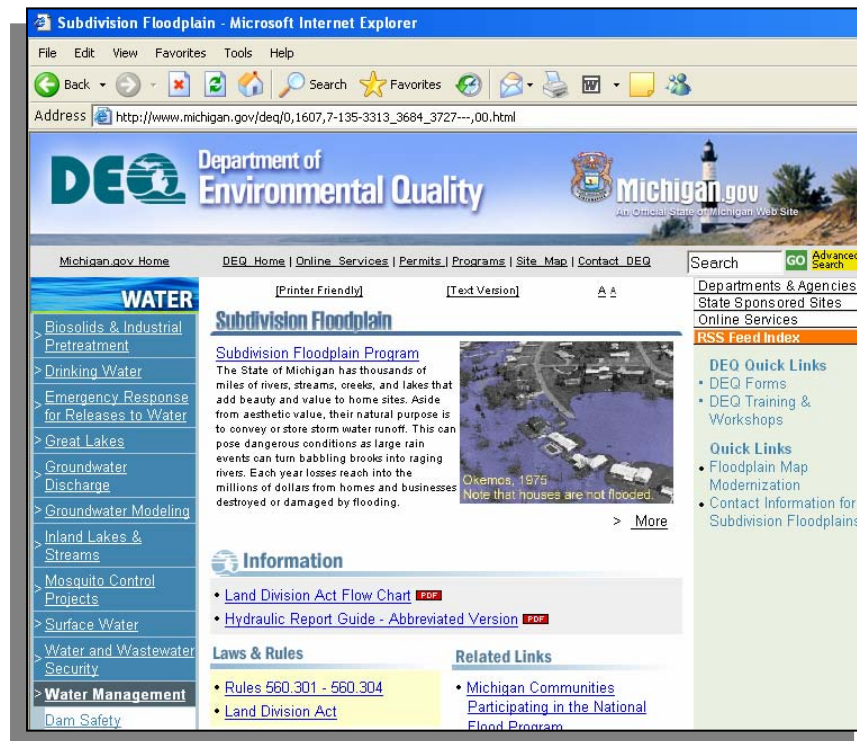
MDEQ, LWMD, PCU at 517-373-9244

Subdivision plats subject to this review should be submitted to the following address:

Department of Environmental Quality
Land and Water Management Division
Subdivision Floodplain Program
PO BOX 30458
Lansing MI 48909-7958

There are 278 communities in the state with 100-year floodplain delineation reports approved by the MDEQ that are available for use from the local municipality. Floodplain maps for identified communities may be obtained from the FEMA at 1-800-358-9616 or downloaded from the website referenced above. If approved floodplain delineation reports are not available, or if a lake or watercourse is not covered by such reports, the 100-year floodplain limits shall be determined by a qualified professional licensed in this state, practicing in the area of their expertise, using acceptable engineering practice. Generally, this entails surveying cross sections of the floodplain and computing a backwater profile. This determination shall be subject to review and approval by the MDEQ.

Information regarding the Subdivision Floodplain Program, and related link information can be found on the MDEQ web site at www.michigan.gov/jointpermit, select “Water Management (in Related Links),” then “Subdivision Floodplain.”



High Risk Erosion Areas (HREA Part 323, Shorelands Protection and Management)

Many homes and other structures have been destroyed along areas of the Great Lakes subject to rapid shore erosion processes. This destruction has resulted in severe financial loss to property owners. Public losses to recreation facilities, roads and other public works have also occurred. Structures threatened by erosion must be moved landward (where possible), protected by costly shore protection, or lost.

High risk erosion areas (HREA) are those shorelands of the Great Lakes and connecting waters where recession of the zone of active erosion has been occurring at a long-term average rate of one foot or more per year. The erosion can be caused from one or several factors - high water levels, storms, wind, ground water seepage, surface water runoff, and frost. The high risk erosion area regulations establishes a required setback distance to protect new structures from erosion for a period of 30 to 60 years, depending on the size, number of living units and type of construction. Other setback requirements apply to additions to existing structures. Some local units of government have adopted a zoning ordinance for high risk erosion areas which replaces the need for the high risk erosion area permit. (Note: other state permits such as for critical dune areas, wetlands or shore protection may still be necessary from the MDEQ). Alabaster Township and Pere Marquette Township have MDEQ approved local ordinances. Approximately 300 miles of shoreline are classified as HREA. Updates of the recession rate studies are scheduled every ten years to reflect

changing water levels and shore protection efforts. Projects located in these areas should be described in Section 20 of the JPA.

HREA = receding 1 foot per year based on a long term average

For more information regarding HREA or for assistance in JPA preparation, please contact:

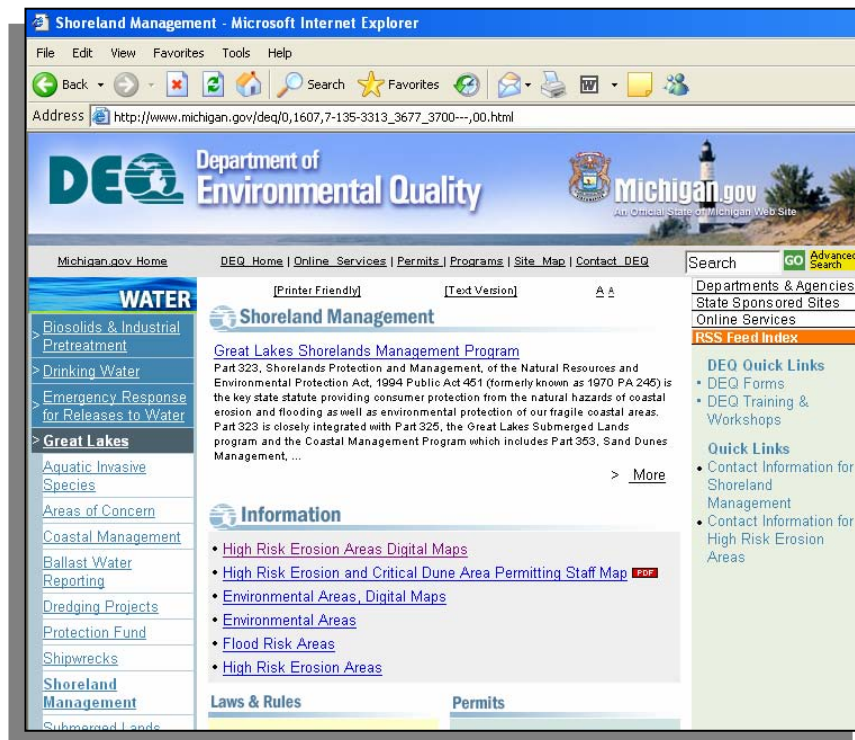
Penny Holt
517-373-1952 (Phone/Voice Mail)
holtp@michigan.gov (E-mail)

or

Matt Warner
517-335-4209 (Phone / Voice Mail)
warnermt@michigan.gov (E-mail)

MDEQ, LWMD, PCU at 517-373-9244

Information regarding HREA can be found on the MDEQ web site at www.michigan.gov/jointpermit, select "Great Lakes (in Related Links)," then "Shorelands Management."



Marina Operating Permits (Part 301, Inland Lakes and Streams)

Whether or not an activity requires a Marina Operating Permit (MOP) under Part 301, Inland Lakes and Streams, of the NREPA depends on the nature of the use and location. Commercial businesses that provide docking or mooring as part of their services, as well as docking or mooring at outlots, trailer parks, condominium and apartment developments, yacht clubs, and other commonly owned or controlled points of access meet the MDEQ definition of a marina. MOPs for marinas are only issued by MDEQ for those that are located on inland lakes and streams as required by Section 324.30101 of Part 301.

Activities on the Great Lakes and their tributaries that are under the jurisdiction of the USACE, are regulated by the MDEQ under Part 325, Great Lakes Submerged Lands, and do not require a MOP. However, a marine construction permit is required by Section 324.32512(d) of Part 325. If a marina is located on a Great Lake, a conveyance serves in place of a Marina Operating Permit. Conveyances are discussed elsewhere in this chapter.

Following are key definitions from Part 3, Definitions, and Part 301 that may be helpful in understanding the MDEQ's position:

Section 324.30101(g) of Part 301 states: "Marina" means a facility that is owned or operated by a person, extends into or over an inland lake or stream and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.

Section 324.30101(n) of Part 301 states: "Seasonal structure" includes any type of dock, boat hoist, ramp, raft, or other recreational structure that is placed into an inland lake or stream and removed at the end of the boating season.

Section 324.30101(o) of Part 301 states: "Structure" includes a marina wharf, dock, pier, dam weir, stream deflector, breakwater, groin, jetty, sewer, pipeline, cable, and bridge.

Section 324.301(g) of Part 301 states: "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

Section 324.30102 of Part 301 states in part: "Except as provided in this act, a person without a permit from the department shall not ...

(b) Construct, enlarge, extend, remove or place a structure on bottomland.

(c) Erect, maintain, or operate a marina. ..."

Section 324.30103 of Part 301 states in part: "A permit shall not be required for: (b) A seasonal structure placed on bottomland to facilitate private noncommercial recreational use of the water if it does not unreasonably interfere with the use of the water by others entitled to use the water or interfere with flow. ..."

Although the JPA for a construction permit and an operating permit are filled out at the same time for new or expansion projects, the MOP is not issued simultaneously with the construction permit. Upon completion of the permitted construction activities and prior to operation, the marina operator should contact the MDEQ to schedule a compliance inspection. Upon determining that all construction is completed in accordance with the permit terms and conditions, the MOP is granted. MOPs are issued for a three calendar year period and are required to be renewed.

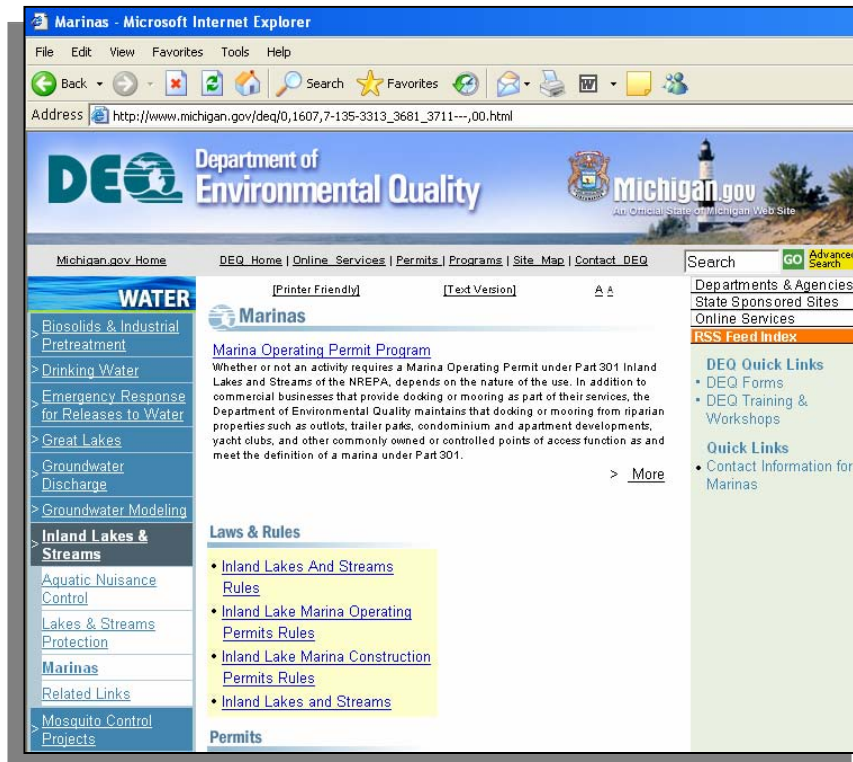
For more information regarding the MOP program or for assistance in JPA preparation, please contact:

Jim Milne
517-373-4608 (Phone/Voice Mail)
517-335-3451 (Fax)
milnej@michigan.gov (E-mail)

or

MDEQ, LWMD, PCU at 517-373-9244

Additional information about the Marina Operating Permit Program can be found on the MDEQ web page at www.michigan.gov/jointpermit, select "Inland Lakes and Streams (in Related Links)," then "Marinas."



Public Transportation Projects – Act 51

Under a Memorandum of Understanding (MOU) between the Public Transportation Agencies (PTA) and the Michigan Department of Environmental Quality, the Land and Water Management Division (LWMD) works directly with the PTA's on public road projects and other projects using Act 51 transportation funds. The Joint Permit Application (JPA) is used for public transportation projects but it is reviewed by the LWMD Transportation and Flood Hazard Unit (TFHU) rather than by the Permit Consolidation Unit. An application fee is not required for public transportation covered by the JPA. Wetland delineation and monitoring costs though are not covered under the MOU.

TFHU staff assist PTA's with the permit process for bridges, culverts, and road projects that impact streams, drains, lakes, or wetlands. A PTA can submit a preliminary review application form for a particular project and receive comments from the LWMD regarding potential environmental requirements. The preliminary review application form is available on the internet at www.michigan.gov/jointpermit then click on "Water Management (in Related Links)," "Transportation Review," "Hydraulic Programs and Report Guidelines."

The screenshot shows the Michigan Department of Environmental Quality (DEQ) website. The browser window is titled "Transportation Review - Microsoft Internet Explorer". The address bar shows the URL: http://www.michigan.gov/deq/0,1607,7-135-3313_3684_15299---,00.html. The page features the DEQ logo and the Michigan.gov logo. A navigation menu on the left lists various topics under the heading "WATER", including "Biosolids & Industrial Pretreatment", "Drinking Water", "Emergency Response for Releases to Water", "Great Lakes", "Groundwater Discharge", "Groundwater Modeling", "Inland Lakes & Streams", "Mosquito Control Projects", "Surface Water", "Water and Wastewater Security", and "Water Management". The "Water Management" section is expanded, showing links to "Dam Safety", "Floodplain Management/National Flood Insurance", "Collection & Analysis", "Subdivision", "Floodplain", "Transportation Review", and "Review". The main content area is titled "Transportation Review" and contains the following text: "The Transportation Flood Hazard Management Unit of the Land and Water Management Division reviews permit applications submitted by Public Transportation Agencies under a Memorandum of Understanding between the Michigan Department of Transportation and the Michigan Department of Environmental Quality. Applications submitted by Public Transportation Agencies should be mailed to: MDEQ, LWMD-TFHU, PO Box 30468, Lansing, MI 48909-7958." Below this text is a section titled "Information" with a list of links: "Voluntary Preliminary Review Instructions PDF", "Voluntary Preliminary Review Form PDF", "Early Coordination (13 Kb) PDF", "Expedited Permits (30 Kb) PDF", "Emergency Procedures (110 Kb PDF) PDF", "Bridge and Culvert Guidelines PDF", "Sample Permit Application (8,500 Kb PDF) PDF", "Staff Map PDF", "Staff Contacts PDF", "Transportation & Hydraulic Review", "Joint Agency Transportation Committee", "Hydraulic Programs and Report Guidelines", and "Permit Guidelines for Public Transportation Agencies". A red box highlights the "Transportation Review" link in the left navigation menu and the "Transportation & Hydraulic Review" link in the main content area.

TRANSPORTATION TEAM
Land and Water Management Division,
Michigan Department of Environmental Quality
 DEQ INTERNET SITE: www.michigan.gov/degwatermanagement
 (Click on *Transportation Review*)

Environmental	Jerry Fulcher 517-335-3172 fulcherj@michigan.gov	Supervision, Environmental Hydraulic Reviews and Statewide Program Administration	Michigan Department of Environmental Quality Land and Water Management Division P.O. Box 30458 Lansing, Michigan 48909-7958 Fax: 517-373-9965
	Shirley Smith 517-335-3183 smiths1@michigan.gov	Technical Support Function for Transportation Team	
	Sherry Spalding 517-241-8170 spaldings@michigan.gov	Initial Application Review Statewide	
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	Holly Stearns 517-373-4667 stearnsh@michigan.gov	Southwestern Lower Peninsula Permit Program Administration	
	Duke Domke 989-705-3429 domker@michigan.gov	Northern Lower Peninsula Permit Program Administration	Michigan Department of Environmental Quality Land and Water Management Division Gaylord Field Office 2100 West M-32 Gaylord, MI 49735-9282 Fax: 989-731-6181
	Ginny Pennala 906-346-8559 pennalav@michigan.gov	Upper Peninsula Permit Program Administration	Michigan Department of Environmental Quality Land and Water Management Division 420 5 th Street Gwinn, Michigan 49841 Fax: 906-346-4480
Hydraulics			Michigan Department of Environmental Quality Land and Water Management Division P.O. Box 30458 Lansing, Michigan 48909-7958 Fax: 517-373-9965
	Minmin Shu 517-241-8129 shum@michigan.gov	Hydraulic Reviews	
	Sheila Meier 906-346-8558 meiers@michigan.gov	Hydraulic Reviews Upper Peninsula	Michigan Department of Environmental Quality Land and Water Management Division 420 5 th Street Gwinn, Michigan 49841 Fax: 906-346-4480
Hydrology	Ric Sorrell 517-335-3176 sorrell@michigan.gov	Supervision, Program Development	Michigan Department of Environmental Quality Land and Water Management Division P.O. Box 30458 Lansing, Michigan 48909-7958 Fax: 517-373-9965

3/2006

Wetland Protection (Part 303, Wetland Protection)

Michigan's wetland statute, Part 303, Wetlands Protection, of the NREPA defines a wetland as "land characterized by the presence of water at a frequency and duration sufficient to support, and under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh." The definition applies to public and private lands regardless of zoning or ownership.

Most people are familiar with the cattail or lily pad wetland found in areas with standing water, but wetlands can also be grassy meadows, shrubby fields, or mature forests. Many wetland areas have only a high ground water table and standing water may not be visible. Types of wetlands include deciduous swamps, wet meadows, emergent marshes, conifer swamps, wet prairies, shrub-scrub swamps, fens, and bogs. Further guidance can be found on the MDEQ "Wetland Protection" web page, towards the bottom under "Identification."

Additional information regarding Wetland Protection can be found on the MDEQ web pages at www.michigan.gov/jointpermit, select "Wetland Protection."



Wetland Assessment Program (WAP)

The Wetland Assessment Program (WAP) has been made available by the MDEQ, LWMD since July 1998. The WAP and the ability to assess fees for the WAP are authorized by Part 303. The WAP offers three levels of service to assist the public in identifying wetland and upland areas on their property. This service is not required to be used to apply for a permit, but provides a tool to help expedite the permit determination process.

Level 1 is an office review of available maps and other available resources to determine the approximate location of wetlands in a given area. \$50 fee

Level 2 is an on-site assessment to determine if wetlands are present on a site (for the first acre or less, \$50 for each additional acre or fraction of an acre.) \$200+ fee

Level 3 is an on-site inspection to assess wetland boundaries. \$150+ fee

Individuals interested in WAP services should submit an application indicating the level of service desired, supporting documentation as required by the application, a description of the area to be assessed, and the associated fee to the LWMD. The three levels of wetland assessment services and associated fees are as follows:

Level 1: An in-office review is conducted by LWMD staff of readily available information on identified areas of land of up to four sections, including maps and soil surveys indicating the approximate location of wetlands in the given area. The LWMD provides applicants with a report indicating whether there is a high or low probability that the identified area contains wetland, including copies of available maps, a general interpretation of the maps, helpful information regarding the regulatory process and wetland protection, a permit application, and the Wetland Landowners Guidebook. A Level 1 wetland assessment does not include an on-site assessment and therefore does not provide a definitive determination of whether wetlands are present or if the MDEQ has jurisdiction under Part 303. The fee for a Level 1 assessment is \$50.

Level 2: The LWMD conducts on-site assessments of an identified area of land of up to five acres to determine the presence and approximate location of wetland and upland areas. This service does not include a wetland delineation, and the exact boundary between wetland and upland areas will not be identified. Rather, the LWMD staff will clearly flag and map upland areas where any activity can occur without regulation under Part 303. Areas identified as wetland may include small upland areas. If a precise delineation between upland and wetland is needed, a Level 3 assessment (described below) is recommended. A written report of findings will be provided, including a map showing the approximate location of land containing wetland and not containing wetland (upland) areas, and information regarding the regulatory process. The report will include a statement that the MDEQ lacks jurisdiction, under Part 303, over those areas not identified as regulated wetland for three years from the assessment date. The fee is \$200 for the first acre or less, and \$50 for each additional acre or fraction of an acre of land to be assessed. Example: 4.7 acres = \$200 + (4 x \$50) = \$400.

Level 3: The LWMD staff conducts an on-site assessment of an identified area of land to review a wetland delineation (i.e., identification of the specific wetland/upland boundaries) established by a wetland consultant. The LWMD staff reviews the staked and/or flagged boundaries and submits a written report of the findings to the applicant. This service provides the specific location and boundaries of wetlands in the assessment area and a three-year guarantee that the MDEQ lacks

jurisdiction, under Part 303, over those areas not identified as regulated wetlands. This service requires delineation, marking, and mapping of the wetland boundaries within the assessment area by a qualified wetland consultant prior to the LWMD's assessment. The fee is \$150 for the first acre or less, and \$15 for each additional acre or fraction of an acre of land to be assessed. Example: 4.7 acres = \$150 + (4 x \$15) = \$210.

A copy of the WAP application is provided in Appendix G.

For more information regarding the Wetland Assessment Program or for assistance in the WAP application preparation, please contact:

Todd Losee
517-335-3457 (Phone/Voice Mail)
loseet@michigan.gov
or
MDEQ, LWMD, PCU at 517-373-9244

Additional information regarding the WAP can be found on the MDEQ Wetland Protection web page at www.michigan.gov/jointpermit, select "Wetland Protection (in Related Links)" then "Wetland Assessment Program":

